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Jan 16 1999

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: John P. Atkinson, Dennis Hourcade, and Malgorzata Krych

SERIAL NO.: 08/126,505

GROUP ART UNIT: 1646

FILED: September 24, 1993

EXAMINER: L. Spector

FOR: MODIFIED CR1 ANALOGUES

Assistant Commissioner  
of Patents  
Washington, D.C. 20231

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GROUP 160  
PATENT & TRADEMARK OFFICE

**RESPONSE TO NOTICE OF DEFECTIVE APPEAL BRIEF  
AND PETITION TO ENTER AMENDMENT**

Sir:

Responsive to the Advisory Action mailed December 4, 1998, and further in response to the Notice of Defective Appeal Brief and Advisory Action mailed October 20, 1998, in the above-identified patent application, applicants hereby petition for entry and consideration of the Amendment mailed September 8, 1998.

In response to the Notice of Defective Appeal Brief, please note that the Appeal Brief does contain the claims as pending prior to entry of the Amendment, in Appendix I, and the arguments have been based on the claims as finally rejected, not as proposed to be amendment. The Appeal Brief therefore should not have been rejected as defective.

The Amendment mailed with the Appeal Brief should have been entered. As noted in the Advisory Action, the examiner has no objection to the amendments to claims 1, 27 and 32. The

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amendments to claims 8, 9, 10 and 23-25 were refused on the basis that they raised new issues. These amendments do not raise new issues, however, because they substantially narrow the scope of the claims on appeal, as well as make them more definite. These amendments therefore would narrow issues on appeal. The amendments are to change the language regarding the amino acid sequence to make it more definite; not to alter the scope. As originally presented, the claims recited a specific amino acid sequence "or structurally similar amino acids selected from the group consisting of (I,L,V), (F/V), (K/R), (Q/N), (D/E), and (G/A)". As proposed to be amended, the claims recite a specific amino acid sequence "or those amino acid sequences where I is replaced with either L or V, L is replaced with either I or V, V is replaced with I, L, or F, F is replaced with V, K is replaced with R, R is replaced with K, Q is replaced with N, N is replaced with Q, D is replaced with E, E is replaced with D, G is replaced with A, or A is replaced with G". See the specification as originally filed at page 15, lines 17-22.

In response to the Examiner's query regarding whether all amino acids are replaced, please note the use of the term "or". With regard to claims 10 and 25, these claims are still pending, and therefore properly included in the appendix.

In response to the statement in the Advisory Action mailed December 4, 1998, "brief does not address rejection under 112§2", which was not included in the please note that the Amendment was presented in response to this rejection. Enclosed in response to the Advisory Action is a revised Appeal Brief that does present argument as to this issue.

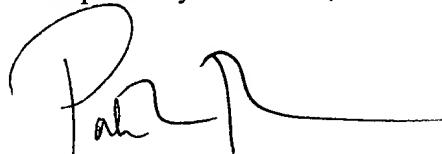
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A check for \$130 for consideration of this petition to enter the Amendment was mailed November 20, 1998. The Commissioner is authorized to charge any other fees that may be due, or credit any overpayments, to our Deposit order Account 01-2507. A duplicate of this sheet is enclosed to facilitate processing.

Respectfully submitted,



Patrea L. Pabst  
Reg. No. 31, 284

Dated: December 29, 1998  
Arnall, Golden & Gregory LLP  
2800 One Atlantic Center  
1201 West Peachtree Street  
Atlanta, GA 30309-3450

CERTIFICATE OF MAILING (37 C.F.R. §1.8a)

I hereby certify that this paper, along with any paper referred to as being attached or enclosed, is being deposited with the United States Postal Service on the date shown below with sufficient postage as first-class mail in an envelope addressed to the Assistant Commissioner of Patents, Washington, D.C. 20231.

  
Jean Hicks

December 29, 1998